

COMMUNICATIONS CABLE

Exchange of notes at Panama March 31, 1949

Entered into force April 14, 1949

Paragraph 5(c) modified by agreement of September 9 and 26, 1949¹

Extended by agreement of March 9 and April 1, 1965²

63 Stat. 2471; Treaties and Other
International Acts Series 1932

The American Ambassador to the Minister of Foreign Affairs

No. 145

PANAMA, March 31, 1949

EXCELLENCY:

I have the honor to refer to the civil aviation agreement between the United States of America and the Republic of Panama signed at Panama City on March 31, 1949.³ Article XIV of this agreement states that, "The Government of the United States of America will make available a certain communications cable for use in connection with operations at Tocumen National Airport, Panama City and the Canal Zone, according to terms and conditions concerning the installation, operation and maintenance of this cable for commercial as well as official use, which will be determined by an exchange of notes entered into this day between the Government of the Republic of Panama and the Government of the United States of America".

Upon notification to my Government of the ratification by the Government of the Republic of Panama of the general aviation agreement, the Government of the United States of America will furnish the said communications cable under the following terms and conditions:

(1) The Government of the United States of America is the owner of 16 miles of 100 pair subterranean and submarine cable and 2 miles of 50 pair subterranean and submarine cable (hereinafter referred to as "the cable"). The Government of the United States of America and the Government of the Republic of Panama agree that the cable shall be installed between Albrook Air Force Base and Tocumen National Airport, and shall remain there for a period of fifteen years from the date of this agreement.

¹ *Post*, p. 883.

² 16 UST 737; TIAS 5800.

³ TIAS 1932, *ante*, p. 857.

Upon the expiration of said fifteen-year period, the Government of the United States of America shall have the right to remove or otherwise dispose of the cable. If, however, at the end of said fifteen-year period, both Contracting Parties are agreeable thereto, the terms of this agreement shall be extended for an additional ten years. As long as this agreement shall be in effect, the cable shall remain the property of the Government of the United States of America, and shall not be subject to taxes of any kind imposed by the Government of the Republic of Panama.

(2) The Government of the United States of America shall prepare technical specifications for the installation of the cable and shall provide technical supervision of the installation thereof. The Government of the United States of America shall itself perform any and all operations connected with splicing, loading and termination of the cable with respect to said installation, and shall provide all equipment and materials necessary for such operations. The Contracting Parties agree that such loading and terminal equipment shall be considered a part of the cable, and shall be subject to all provisions of this agreement which apply to the cable. The Government of the United States of America undertakes to exercise its best efforts to maintain the cable in operating condition for and during the term of this agreement. The Government of the United States of America may designate agents to perform the aforesaid work on its behalf, but agrees to establish technical standards and provide technical supervision of any such agents in the performance of the said work, and any such agents shall comply with such standards and supervision. The Government of the United States of America shall bear only the expenses involved in the following operations:

- (a) Preparation of technical specifications for the installation of the cable.
- (b) Technical supervision of the installation of the cable.
- (c) Splicing, loading and termination operations.
- (d) Equipment and materials necessary for splicing, loading and termination.

(3) The Government of the Republic of Panama shall, except as hereinabove stated, install the cable in accordance with the technical specifications and technical supervision of the Government of the United States of America. The Government of the Republic of Panama shall bear the expense of the said installation of the cable except as hereinabove recited.

(4) The Government of the United States of America shall have the right to replace all or any part of the cable during the term of this agreement, provided, however, that the Government of the United States of America be under no duty to replace all or any part thereof. Should there be a difference of opinion between the Contracting Parties as to whether any proposed operation is an item of maintenance or an item of replace-

ment, the Contracting Parties shall consult together to arrive at a determination with respect thereto.

(5) The operational control of the cable shall be vested in the Government of the United States of America. However, lines of the cable shall be allocated by mutual accord between the Contracting Parties in accordance with the purposes of this agreement, and said allocation may be changed at any time and from time to time by mutual consent of the Contracting Parties. It is agreed that lines in the cable shall be allocated, on a priority basis, to the Government of the United States of America and to the Government of the Republic of Panama, respectively, as circumstances may require. No charge shall be imposed by either Contracting Party for lines so allotted to either of the Contracting Parties. All lines in the cable not so allocated shall be allocated for commercial operation after reserving a sufficient number for use as spares. The lines allotted for commercial operation shall be made available to commercial airlines of the United States of America engaged in business at Tocumen National Airport, and to similar airlines of the Republic of Panama, on a non-discriminatory basis. Lines not so allocated shall be made available to other commercial users on a non-discriminatory basis. The original allocation will be made according to the following priority:

- (a) Up to ten pairs of lines may be used by each Contracting Party for official Government use only.
- (b) Up to 15 pairs of lines will be reserved for engineering spares.
- (c) Up to 10 pairs of lines will be reserved for transmission of aeronautical communications between Tocumen National Airport and the Canal Zone.⁴
- (d) Air lines of the Republic of Panama and of the United States of America will be allocated pairs of lines upon application.
- (e) Other commercial users will be allocated pairs of lines upon application.

The above allocation will be administered by an appropriate agency of the United States Government and it is understood that the allocation of lines to official or private users in Panama City will depend upon whether the local telephone company is able to make the necessary connection with the cable.

(6) Lines allotted for commercial operation in accordance with paragraph (5) may be made available by connection to the cable by any existing commercial telephone system, on terms and conditions, and at cable rental rates established by the United States of America, due consideration being given to practices in the area. Rates to be charged ultimate users of such lines shall be computed by adding the rates established by the local telephone

⁴ For a modification of para. 5(c), see agreement of Sept. 9 and 26, 1949, *post*, p. 883.

company for Panama City service, which are approved by the Government of the Republic of Panama, to the rates charged by the Government of the United States of America for rental of lines within the cable. The Government of the Republic of Panama agrees that no special tax, charge, or surcharge shall be imposed by the Government of Panama on such rates charged to ultimate users, except reasonable charges for any additional service or services which may be provided at the request of the ultimate user.

(7) Cable rental rates established by the United States of America in accordance with provisions of paragraph (6) shall be fixed at a level estimated to cover costs of maintenance of the cable and/or replacement of the cable. Such rates may be adjusted at any time and from time to time as circumstances require.

Revenues derived from rental of lines within the cable to non-Government users will be collected by the agency of the Government of the United States administering the cable from the commercial telephone company serving the ultimate users, and all such revenues collected will be transmitted to the Treasurer of the United States to cover costs of maintenance and/or replacement of the cable.

(8) The cable shall not be used by either Contracting Party or by any person, persons or entity for the transmission of power. At no time shall voltage exceed 130 volts nor shall the current exceed one ampere.

The Government of the United States of America is prepared, if this proposal is acceptable to the Government of the Republic of Panama, to regard the present note and Your Excellency's reply thereto as constituting an agreement between the two Governments, which shall take effect on the day on which notice of the ratification of the aforesaid civil aviation agreement by the Government of the Republic of Panama is given to the Government of the United States of America.

Please accept, Excellency, the renewed assurances of my highest consideration.

MONNETT B. DAVIS

His Excellency

Lic. IGNACIO MOLINO, Jr.

*Minister for Foreign Affairs
Panama, R.P.*

The Minister of Foreign Affairs to the American Ambassador

[TRANSLATION]

D.P. No. 646

PANAMA, March 31, 1949

MR. AMBASSADOR:

I have the honor to acknowledge the receipt of Your Excellency's note of this date which states the following:

[For text, see above.]

In connection with this matter I have the honor to inform Your Excellency that the Government of Panama accepts this proposal of the Government of the United States of America, and therefore Your Excellency's note and this reply constitute an Agreement between the two Governments, which will come into force on the day on which notification of the ratification of the above-mentioned Civil Aviation Agreement by the Government of the Republic of Panama is given to the Government of the United States of America.

I avail myself of the opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

IGNACIO MOLINO, Jr.
Minister of Foreign Relations

His Excellency

MONNETT B. DAVIS,

*Ambassador Extraordinary and Plenipotentiary
of the United States of America,
City.*